Certain seasonable

CONSIDERATIONS AND REASONS HUMBLY OFFERED, AGAINST Reviving the Act; Intituled,

An Act for the better Propagation and Preaching of the Gospel in Wales, *and redresse of some Grievances there.*

Presented to the Supreme Authoritie the Parliament of the Common-wealth of *ENGLAND.*

WITH

Wholesome PROPOSALLS, touching the future disposall of the power given by the said ACT.

THis Act vesteth in the Commissioners named in that Act, a double power, { 1. *Ecclesiastick.* 2. *Civill.*

Ecclesiastick; To remove from, and confer Ecclesiastical promotions, &c. and to dispose of the Church Revenue.

Observation.

1. *Wales* having been many ages sithence happily incorporated with *England*, and governed by the same Laws, as well those of the Church, as Civill, by this Act are governed by distinct

Laws, which in this conjunction of time may not give that publique ſatisfaction.

2. If this Act is for the *better Propagation of the Goſpell in* Wales, than the generall Act for all *England* is, it muſt be either becauſe of the matter of this Act, or the manner of proceedings thereupon, or ſome other peculiar Circumſtances.

The matter thereof is, *To amove from, and confer Eccleſiaſticall promotions*, &c.

3. The very ſame matter is veſted in the honourable Committee for Plundered Miniſters at *Weſtminſter*, for the diſpoſall of promotions in *England*; and the perſons of that Committee are all Members of Parliament. The greateſt part of the Commiſſioners in the aforeſaid Act for *Wales*, yea, all that meet to act by virtue thereof, except two perſons, are not members of Parliament, and in regard of their ſeverall relations and Intereſts, if not Judgements, are the rather ſubject to partialities.

4. Neither is their meeting in *Wales* a leſſening of Charge; their meeting in *Southwales* being at *Swanzey*, in *Northwales* at *Wrexam*, 70 miles diſtant from the perſons that are many times ſummoned to attend them; The Committee for Plundered Miniſters being far more certain, and quicker for their diſpatches, and more moderate for Fees allowed to their Officers.

5. It is unuſuall in the Engliſh Government to make Natives Iudges in their own Counties, & (under favour) at this time moſt unſeaſonable, the late differences having rendred Neighbors and Countreymen leſſe affectionate to each other than formerly, and ſuch power may occaſion private vindication more than diſcharging publique Truſt, eſpecially (as it is obſerved) in many of the *Welſh* Nation, ſo impower'd.

6. The Commiſſioners named in the ſaid Act are to act in any part of *Southwales* & *Northwales*, ſo, that it is poſſible that thoſe Commiſſioners living in the remoteſt place of *Southwales* may ſummon perſons living in the remoteſt parts of *Northwales*, and ſo thoſe of *Northwales* the Inhabitants of *Southwales*.

7. The perſons of *Southwales* nominated Commiſſioners in the ſaid Act, are for the moſt part from two Counties, (1) *Brecknock*, *Caermarthen*, *Pembrook* and *Cardigan* having but 5 Commiſſioners inhabiting in them.

The manner of proceeding directed by the Act is

1. That 5 Commiſſioners may examine and eject, &c.

2. Tha

2. That 12 (upon the Ejecteds complaints) might review, and determine.

3. That 12 (upon the Ejecteds appeal) are to transfer, and certifie the proceedings to the Committee for plundred Miniſters.

It is humbly obſerved,

1. That 12 did very rarely meet, the time and place of meeting not uſually publiſhed, nor generally known, the propagators living very remote one from another, and the Itinerants reſidence appointed for approvers altogether uncertain, one while in one Country, another while in another Country, and in no place certain.

2. If they meet, it is probable that the ſame 12 that adjudged a Cauſe, would not transfer and certifie againſt their own Iudgements: And in caſe of refuſall there is no proviſion in the Act to inforce them, and during the three years time this Act continued, notwithſtanding the many hundreds that were ejected, we find few or any cauſe upon an appeal (though importunately deſired) certified by the Commiſſioners.

3. In Caſe the Commiſſioners did transfer and certifie the proceedings before them to the Committee for plundred Miniſters; yet the Act diſabled the Appellant to examine any more witneſſes; and it is poſſible, that, the depoſitions ſo transferr'd and certified were not laid down and certified according to the Examinants intentions, many, if not moſt of the perſons examined againſt ejected Miniſters, being illiterate men, ignorant of the Engliſh tongue, whereof many do complain, and thereby may be uncapable to make their juſt defence: and if any did appeal whether the remedy may prove worſe than the diſeaſe, conſidering how difficult it will be for a poor man (diſabled of means to defray neceſſary charges incident thereto) to recall & annihilate that ſentence or judgment given be it never ſo injurious, the very Fifts allowed the ejected Miniſters Wives by the Act of Parliament being either denied them or allowed according to the Sequeſtrators undervaluations, whereby they are ſo far diſabled of means to appeal that many of them are ready to periſh for want of bread.

4. That theſe triennial powers are of dangerous conſequence, if the perſons intruſted miſuſe, non-uſe, or abuſe their power, and thoſe ſeverall powers continuing for three years may prove

a temptation for honeſt men to act contrary to their Principles: wherefore it hath been the wiſdome of Common-wealths to prevent thoſe inconveniences by changing their powers often, and not giving them too much power at once, or giving them but a ſhort time to act, the better to mind them that their power is not perpetuall, and that they muſt ſhortly give an accompt of their ſtewardſhips, for at the the third years end the oppreſſor may be ſo rich and powerful, and the oppreſſed ſo poor and unable, that the party injuring may eaſily ſuppreſs and ſilence the cry of the party injured, whereas Iudges have their Commiſſions but *quâ diuſe benè geſſerint* or *durante bene placito*; the Councell of State continues but for a year without new election; and all Mayors, Sheriffs, & Bayliffs, are annually choſen and appointed, and liable to give an accompt of their actions in the precedent year of their power, and it is likewiſe deſired to be conſidered that oppreſſion and the abuſe of powers have been the great billowes of the ſeverall wars and commotions not only in *Wales* but alſo in this whole nation.

It is worthy to be remembred that theſe 3 *latens odium juvenile concilium & P vatum lucrum*, ove. threw the flouriſhing eſtate of the Roman Empire.

The Civill power by the ſaid Act veſted in the Commiſſioners is a

Power { 1 To be Arbitrators. 2 To be a Committee of Indempnity.

Arbitrators in theſe words, *A power to inquire and redreſs high miſdemeanours, oppreſſions, and injuries, often eſcaping unpuniſhed, becauſe of remoteneſs from* London, *and want of means in the party Complaining to be redreſſed by due courſe of Law, and the perſons complayning, and Complayneds ſubmiſſion, under their Hands and Seals to determine the ſame.*

It is humbly obſerved,

1. That upon this power of inquiring and redreſſing, the party complained on, may by this power be compell'd to ſubmit, or not; if not, this power is for no other uſe than to occaſion expence of time and moneys, in attendance upon ſummons; and in caſe the Commiſſioners therein named, have no power to trie any matter by bill, indictment, information, or original writ, or by verdict, demurrer, or examination of Witneſſes on oath, or to force the performance of their Adwards; this power muſt needs prove uſeleſs, troubleſome, and chargeable; and that which can attain to no reaſonable end, the Law rejects as a thing inutile and uſeleſſe.

Quicquid egas prudenter agas & reſpice finem ſapiens incipit à fine

2. If

2. If the party complained upon may by this act be compelled to ſubmit, then the Juſtices of Aſſize, and of Peace, offices are ſwallowed up by this power, and without verdict, cauſes always determinable by verdict are adjudged; which bringeth a conteſt betwixt the Judges and Juſtices power and the Commiſſioners, their juriſdiction being not diſtinguiſhed, and ſuters thereby confounded, and lyable to unneceſſary charges and trouble; and by ſuch a power, an Arbitrary power of a Star-chamber might probably be exerciſed, judgments and decrees arrained, and the antient way of tryalls by jury deſtroyed; the Commiſſioners (thoſe that act) being not bred in the Laws, and therefore not ſo competent to judge of Adwards, and penall Lawes, as Judges are, neither are the Commiſſioners (as Judges be) upon their Oathes, in diſcharging this great truſt, for any thing appearing in the ſaid act; and by the Law all Arbitrators ought to be indifferently choſen: the perſons named in the ſaid Act were not choſen by the Countries, who were ignorant thereof untill the Act was publiſhed, moſt of the Counties having no Repreſentatives in Parliament to ſpeak for them at the paſſing thereof, who have ſince declared their diſlike of the execution thereof.

Vide the Lord *Cooks* Expoſition of the 29th Chapter of *Magna Charta* in his 2 part Inſtitutes fo. 51 concerning the arbitrary proceedings of *Empſon* and *Dudley* who were juſtly executed for it.

It is obſerved,

3 That *remoteneſſe from London* is not much more from any parts of *Wales*, than from ſome parts of *Wales* to thoſe places where the Commiſſioners meet, and the uncertainty and unfrequency of their meetings, extraordinary delays and exceſſive fees, have given cauſe for many to believe that this courſe is the *remoteſt* and moſt chargeable way *for redreſſing of grievances.*

As to their power of Committee of Indempnity, it is likewiſe humbly obſerved,

1 That the party Complayning, upon the Complayneds refuſall to ſubmit to the Commiſſioners *Arbitration*, may receive incouragement to implead the party Complayned before the Commiſſioners *as Committee of Indempnity*, who may as *Committee of Indempnity* (though not as *Arbitrators*) inforce ſubmiſſion and obedience. What hath happened there this three laſt years of that nature, is not proper to be here inſerted, ſince the Act of Oblivion hath pardoned both the offences and offendors.

2. The

Qui facit per alium facit per se. An Act of Parliament that a man shall be Iudge in his own cause is a void Act.

2 The Act of Oblivion having ended most matters properly determinable by the Committee of Indempnity there, the continuance of that power can prove for no other use, than to incourage litigious persons to molest their neighbours; and indeed nothing is properly determinable before them but what must relate to those that now act under them, by colour of their severall powers, Military, Civill, and Ecclesiasticall.

3 Those of *Southwales* have the command of the Military power now on foot there; the power of Iustices of Peace, Commissioners for Propagation, for Arbitration, and Indempnity; Commissioners of monthly Assessments, and of Sequestrations of Papists and Delinquents Estates, and for the most part of very near kin and alliance to each other; Lessors and Lessees by their near friends and agents of the most and best Ecclesiastick Promotions and Sequestred Estates there, the power Civil, Martial, and Ecclesiastick, in the same persons, subservient to one another, to the too hasty and visible improvement of particular mens fortunes; and how these wayes of accumulating all these powers in thirteen Counties, into the hands of a few particular persons (upon any pretence whatsoever) are consistent with the wisdom and policie of a State, and the wellfare of *Wales*, is humbly left to your honours grave consideration.

4 It is worth the taking notice of, that those persons from *Wales*, that appear in soliciting the continuance of this Act, are (for the most part) either persons formerly nominated in the said Act, or *Perners* of the profit of the *Ecclesiastick* revenue, or having relation to those that injoy the same. And it is humbly desired, that the worthy Members of Parliament will take notice of the carriage of three of the itinerant Approbationers at the Parliament Door, Friday the 25 of *March* instant, to beg the renewing of the Act, and whether it better becomed them to be preaching the word in *Wales*, where there is a scarcity of Preachers, than to spend their time in *London*, to sollicit the continuance of their former power and advantage.

1 Quærie Touching the ecclesiasticall powers.

It is humbly prayed it may be considered whether the Commissioners named in the said Act walk'd with such rigidness in the ejecting of the former Ministers, and Schoolmasters, that small offences of 10 or 20 years standing were freshly arreigned as Capital crimes and small crimes unpardonable, without re-

respects to their abilities, parts, and readiness to conform, and become more serviceable for the future to the Church & State under the present established goverument, and whether humane prudence, if not Christian Charity should have induced them to continue the most able, conformable, and best qualified of them, that never personally acted against the Parliament, at least wise, untill they could provide better in their roomes, and not to leave the Country naked, and not above three or four to supply some Counties, and whether there be 700 parishes besides Chappels of ease in *Southwales*, and above 600 of them unsupplied, to the famine of the word of God, and that many of the Itinerants, and Schoolmasters, now employed and suffered to officiate, be not more scandalous than some of those ejected, and some that bore arms against the Parliament, and a Papist in the town of *Brecknock* that keeps school, and whether Iesuits and Seminary Priests were not discharged in *Monmouthshire*, without being proceeded against according to the Law of the Land.

Whether the Commissioners for propagation make an accompt but of 19000 l. or thereabouts, for the tithes &c. in the said 7 Counties for 2 years, and do by answer say the Fifts and contributions are not fully known nor allowed, and that they have not mony to pay the Ministers approbationers, if so, what propagation or better supply the said Counties are like to have for the future, if their power be renued, and how well they have disposed of the tithes, whether or no the Petitioners offer 20000 l. for the tithes for one year which is more by 20000 l. then the Commissioners accompt for 2 years, as by the particulars and reply of the Petitioners of the 6 Counties of *Southwales* and County of *Monmouth* lodged with the Honourable Committee of Plundred ministers may more fully appear. 2 Quærie

It is humbly desired that the honourable Parliament will take notice, That the Commissioners answer was reported, before a Copie thereof granted the Petitioners; A particular Book of accompt of 60 sheets of paper mentioned in the report, before a sight and Copie thereof likewise granted, though the Petitioners moved for it; An information against *John Gunter* reported before he was summoned to answer the same, or had a Copie thereof. The particulars and Reply lodged by the Petitioners with the honorable Committee, (whereupon the Petitioners 3 Quærie

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craved a Commission to examine Witnesses) left out of the Report, though once ordered to be reported: And this Report made before any one Witnesse examined, or Commission issued forth. And untill Commissions be issued forth, and Witnesses examined, whereby matter of fact may appear, It is humbly left to your Honours consideration, whether your Honours will think fit to continue the same powers on the same persons, since their proceedings for the last 3 years have given so little satisfaction to the Country and the State, in relation to the vast revenues thereby received.

Proposalls humbly offered touching the future disposall of the power given by the said Act.

1. It is therefore humbly offered to your Honours grave Consideration, whether or no it be not more of publique conveniency, That the power Ecclesiastick given by the said Act be vested in the honourable Committee for Plundered Ministers, the Lords Commissioners of the Great Seal of *England* for the time being, and Sir *John Thorowgood*, and other the Trustees named in an Act of the 8th of *June*, 1649. Intituled, *An Act for providing Maintenance for Preaching Ministers, and other pious uses*, in the same manner as it is already in *England* vested upon the said honourable persons, being persons of known integritie and honour, and not of such persons relations in *Wales*, with such speciall power and direction therein for the better carrying on and managing of so great and weighty a work, as to your Honours wisdom shall seem meet.

2. That as to the power given by the said Act to the Commissioners therein named to Act as Committee of Indempnity, for as much as the Parliament have by their severall Acts of the 23. of *June*, and the 8. of *October* 1652. vested the same in *Samuel Moyer* Esq; and other the Commissioners therein named, as well in *England* as in *Wales*; It is humbly left to consideration, whether the same power may not be still continued in the said persons.

3. As to the power given by the said Act for *Arbitration*, For as much as the Parliament have appointed Judges, Justices of Peace, and other Magistrates in *Wales*, and elsewhere, to execute the Laws of the Land by safe and setled rules, intrusted in discreet persons bred in the knowledge of the Law; It is likewise left to consideration, whether the same power may not still continue in them, and no otherwise, in the same manner as formerly.

FINIS.

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